

031904
22713

U.S. PTO

UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	42P2737C4
First Inventor	David Bistry, et al.
Title	Emptying Packed Data State During Execution of Packed Data Instructions
Express Mail Label No.	EL617209324US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents

1. Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)

2. Applicant claims small entity status.
See 37 CFR 1.27.

3. Specification [Total Pages 108]
(preferred arrangement set forth below)
- Descriptive title of the Invention
- Cross References to Related Applications
- Statement Regarding Fed sponsored R & D
- Reference to sequence listing, a table,
or a computer program listing appendix
- Background of the Invention
- Brief Summary of the Invention
- Brief Description of the Drawings (if filed)
- Detailed Description
- Claim(s)
- Abstract of the Disclosure

4. Drawing(s) (35 U.S.C. 113) [Total Sheets 20]

5. Oath or Declaration (signed) [Total Pages 5]
a. Newly executed (original or copy)
b. Copy from a prior application (37 C.F.R. § 1.63(d))
(for continuation/divisional with Box 18 completed)
i. DELETION OF INVENTOR(S)
Signed statement attached deleting inventor(s)
named in the prior application, see 37 CFR
1.63(d)(2) and 1.33(b).

6. Application Data Sheet. See 37 CFR 1.76

7. CD-ROM or CD-R in duplicate, large table or
Computer Program (Appendix)

8. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
a. Computer Readable Form (CRF)
b. Specification Sequence Listing on:
i. CD-ROM or CD-R (2 copies); or
ii. paper
c. Statements verifying identity of above copies

9. Assignment Papers (cover sheet & document(s))

10. 37 C.F.R. § 3.73(b) Statement Power of Attorney
(when there is an assignee)

11. English Translation Document (if applicable)

12. Information Disclosure Statement (IDS)/PTO-1449 Copies of IDS
Citations

13. Preliminary Amendment Application Amended
to Reflect Claim of
Priority

14. Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)

15. Certified Copy of Priority Document(s)
(if foreign priority is claimed)

16. Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i).
Applicant must attach form PTO/SB/35 or its equivalent.

17. Other: _____

13441 U.S. PTC
10/805609

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18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

Continuation Divisional Continuation-in-part (CIP) of prior application No: 09/785,303
Prior application Information: Examiner _____ Daniel H. Pan Group/Art Unit: 2183

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

 Customer Number

08791

or Correspondence address below

Name	Daniel M. DeVos Blakely, Sokoloff, Taylor & Zafman LLP				
Address	12400 Wilshire Boulevard, 7th Floor				
City	Los Angeles	State	California	Zip Code	90025
Country	USA	Telephone	(408) 720-8300	Fax	(408) 720-8383

Name (Print/Type)	Daniel M. DeVos	Registration No. (Attorney/Agent)	37,813
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Signature	3/19/04		
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FEE TRANSMITTAL for FY 2004

Effective 10/01/2004. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT (\$ 824.00)

Complete if Known

Application Number	
Filing Date	
First Named Inventor	David Bistry
Examiner Name	Daniel H. Pan
Art Unit	2183
Attorney Docket No.	42P2737C4

METHOD OF PAYMENT (check all that apply)

Check Credit card Money Order Other None
 Deposit Account

Deposit Account Number **02-2666**

Deposit Account Name **Blakely, Sokoloff, Taylor & Zafman LLP**

The Commissioner is authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) or underpayment of fees as required under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account

FEE CALCULATION**1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Paid
Fee Code	(\\$)	Fee Code	(\\$)	
1001	770	2001	385	Utility filing fee
1002	340	2002	170	Design filing fee
1003	530	2003	265	Plant filing fee
1004	770	2004	385	Reissue filing fee
1005	160	2005	80	Provisional filing fee
SUBTOTAL (1)		(\\$)		770.00

2. EXTRA CLAIM FEES

Total Claims	Independent Claims	Extra Claims	Fee from below	Fee Paid
23	3	20*	= 3 X 18.00 =	\$54.00
		3*	= 0 X 86.00 =	\$0.00

Multiple Dependent

Large Entity		Small Entity		Fee Description
Fee Code	(\\$)	Fee Code	(\\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple Dependent claim, if not paid
1204	86	2204	43	**Reissue independent claims over original patent
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent
SUBTOTAL (2)		(\\$)		54.00

**or number previously paid, if greater. For Reissues, see below

3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Description	Fee Paid
1051	130	2051 65 Surcharge - late filing fee or oath	
1052	50	2052 25 Surcharge - late provisional filing fee or cover sheet.	
2053	130	2053 130 Non-English specification	
1812	2,520	1812 2,520 For filing a request for ex parte reexamination	
1804	920*	1804 920 * Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805 1,840 * Requesting publication of SIR after Examiner action	
1251	110	2251 55 Extension for reply within first month	
1252	420	2252 210 Extension for reply within second month	
1253	950	2253 475 Extension for reply within third month	
1254	1,480	2254 740 Extension for reply within fourth month	
1255	1,210	2255 605 Extension for reply within fifth month	
1404	330	2401 165 Notice of Appeal	
1402	330	2402 165 Filing a brief in support of an appeal	
1403	290	2403 145 Request for oral hearing	
1451	1,510	2451 1,510 Petition to institute a public use proceeding	
1452	110	2452 55 Petition to revive - unavoidable	
1453	1,330	2453 665 Petition to revive - unintentional	
1501	1,330	2501 665 Utility issue fee (or reissue)	
1502	480	2502 240 Design issue fee	
1503	640	2503 320 Plant issue fee	
1460	130	2460 130 Petitions to the Commissioner	
1807	50	1807 50 Prosessing fee under 37 CFR 1.17(q)	
1806	180	1806 180 Submission of Information Disclosure Stmt	
8021	40	8021 40 Recording each patent assignment per property (times number of properties)	
1809	770	1809 385 Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810 385 For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801 385 Request for Continued Examination (RCE)	
1802	900	1802 900 Request for expedited examination of a design application	
Other fee (specify)			

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)**SUBMITTED BY**

Name (Print/Type)	Daniel M. DeVos	Registration No. (Attorney/Agent)	37,813	Telephone	(408) 720-8300
Signature				Date	3/19/04

Based on PTO/SB/17 (10-03) as modified by Blakely, Sokoloff, Taylor & Zafman (wtr) 02/10/2004.
 SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	Confirmation No.
First Named Inventor	:	David Bistry
Filed	:	
TC/A.U.	:	Emptying Packed Data State During Execution of Packed Data Instructions
Examiner	:	Daniel H. Pan
Docket No.	:	42P2737C4
Customer No.	:	08791
Art Unit No.		2183

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTIFICATIONS OF RELATED LITIGATION
UNDER MPEP § 2001.06 (C)

Examiner:

U.S. Patent No. 5,701,508 (which issued based on a parent of this application) and 5,835,748 (which has the same specification as this application) were subject of litigation (United States District Court, Western District of Texas, Austin Division, Civil Action No. A-01-CA-602; captioned *Via Technologies, Inc. and Centaur Technology, Inc. v. Intel Corporation*). In addition, the foreign counterpart of U.S. Patent No. 5,701,508 was the subject of litigation in Great Britain, Hong Kong, and Taiwan. All of this litigation has now settled. Applicant submits herewith an IDS containing certain of the pleading and references relied on in this litigation¹, including:

Keith Diefendorff, et al., "Organization of the Motorola 88110 Superscalar RISC Microprocessor", IEEE Micro, pgs. 40-63, April 1992.
R.D. Dixon, "A Stack-Frame Architecture Language Processor", The Journal of Forth Application and Research, Proceedings of the 1987 Rochester Forth Conference, Volume 5, Number 1, pp. 11-25.
Linley Gwennap, "UltraSparc Adds Multimedia Instructions, Other New Instructions Handle Unaligned and Little-Endian Data", Microprocessor Report, pgs. 16-18, December 5, 1994.
L. Kohn, et al., "The Visual Instruction Set (VIS) in UltraSPARC™", IEEE Computer Society Press, pgs. 462-469, Los Alamitos, California, 1995.

¹ The Taiwan counterpart has a later priority date than U.S. Patent No. 5,701,508. As a result, in the Taiwan litigation, different references were identified that have a publication date later than the priority date of this U.S. application. As such, these pleadings and references are not being submitted herewith.

Philip Koopman, Jr., "Stack Computers the new wave", Mountain View Press, pgs. 3-234, La Honda, California, 1989.

Of course, there are additional materials beyond what is being submitted. If any such additional materials are desired, Applicant will make its best effort to provide such documents upon request. It should be noted that Via Parties' confidential information has been redacted from these materials.

In order to aid the Examiner, Applicant provides below a description of the documents submitted.

U.S. Litigation

As discussed in the original Notifications of Related Litigation, *Via Technologies, Inc., Centaur Technology, Inc. and Via Cyrix, Inc.* (collectively Via Parties) alleged that the '508 and '748 patents are invalid², and Intel denied such allocations and replied to each.³

Applicant draws the Examiner's attention to "The Via Parties' Notice Under 35 USC §282" of March 7, 2003 that identifies on pages 7-19 a very large number of sources of information that the Via Parties were considering relying on to support their allegations. Since only selected ones of the large number of items listed in that document were ultimately relied upon in Via Parties' expert reports and since such items are attached as exhibits to those reports, Applicant has opted to submit herewith these reports (see below) as opposed to each of these references individually. Specifically, Applicant draws the Examiner's attention to the Via Parties' submission of the "Expert Report of Harold Stone (2)" of March 17, 2002 and to Intel's submission of the "Rebuttal Expert Report Of Dr. V. Thomas Rhyne Regarding The Validity Of U.S. Patent Nos. 5,701,508, 5,835,748, and 5,201,043" of March 24, 2002. If any additional materials identified in these documents are desired, Applicant will make its best effort to provide such documents upon request.

² Each filed replies to Intel's counterclaims of May 16, 2002(US). Since they are duplicative in nature, Applicant has included one in the attached IDS (Centaur's Reply to Intel's Counterclaims of May 16, 2002; dated May 31, 2002) and directs the Examiner's attention to pages 8-10. See also "Via's And Centaur's Short Statement Regarding Their Non-Infringement and Invalidity Defenses" Of January 24, 2002 And "The Via Parties' Second Supplemental Response To Intel's Interrogatory (No. 3) And Third Supplemental Response To Intel's Interrogatory (No. 6)" of March 7, 2003.

The Via Parties filed a Motion for Summary Judgment alleging that the '748 patent was invalid for failure to disclose the best mode.⁴ However, Intel successfully opposed the motion⁵ and an order denying the motion was entered on March 31, 2003.⁶

Great Britain and Hong Kong Litigation

In addition, certain foreign counterparts of US Patent Number 5,701,508 were the subject of corresponding litigation in Great Britain (UK Patent No. 2 326 494), Hong Kong (Hong Kong Standard Patent No.1016711), and Taiwan.

In Great Britain and Hong Kong, references have similarly been identified⁷.

Applicant has submitted herewith opening and closing skeletal arguments of Intel⁸ and the Via Parties.⁹ Applicant also submits the expert reports of Intel¹⁰ and the Via Parties.¹¹ In addition, Applicant submits a collection of documents referred to as "Bundle X Exhibits Produced At Trial" containing, as the name suggests, the exhibits that were produced during the UK litigation. Applicant draws the Examiner's attention to those sections of these documents dealing with UK Patent No. 2,326,494, which is the foreign counterpart to U.S. Patent No. 5,701,508.

Applicant would point out that both the U.S. and UK litigation were proceeding in parallel, and therefore address the same and/or similar issues.

³ For instance, see "Reply of Intel to Centaur's Counterclaim" of June 13, 2002.

⁴ See "The Via Parties' Motion For Summary Judgment That U.S. Patent No. 5,835,748 Is Invalid For Failure To Disclose The Bus Mode" of March 17, 2003 and "The Via Parties' Reply To Intel's Opposition To The Via Parties' Motion For Summary Judgment That U.S. Patent No. 5,835,748 Is Invalid For Failure To Disclose The Best Mode" of March 27, 2003.

⁵ See "Intel's Opposition To The Via Parties' Motion For Summary Judgment Of Invalidity Of U.S. Patent No. 5,835,748 Based On Best Mode" of March 24, 2003.

⁶ See Order dated March 31, 2003.

⁷ For Great Britain, Applicant directs the Examiner's attention to the following in the attached IDS: Defence and Counterclaim starting at 19 and Particulars of Objections starting at page 2; both dated December 12, 2001. For Hong Kong, Applicant directs the Examiner's attention to the following in the attached IDS: Particulars of Objections; dated December 27, 2002.

⁸ See "Intel's Opening Skeletal Argument" of February 25, 2003 and "Intel's Closing Skeletal Argument" of February 13, 2003.

⁹ See "Defendants' Opening Skeletal Argument" of January 27, 2003 and "Defendants' Closing Skeletal Argument" of February 13, 2003.

¹⁰ See "Expert Report of Michael David May" of December 20, 2002 and "Expert Report of Michael David May Exhibits."

¹¹ See "Experts' Report of Simon Richard Jones" of December 20, 2002.

Finally, Applicant includes an Order of February 3, 2002 giving Intel leave to amend the specification of UK Patent No. 2,326494.

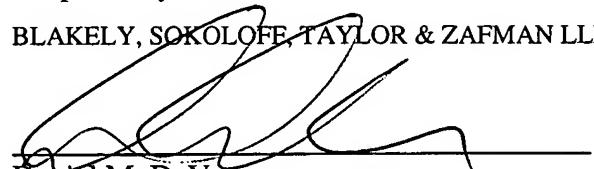
Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 3/19, 2004


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